

REMARKS/ARGUMENTS

Responsive to the Official Action mailed July 29, 2003, applicants have amended the claims of their application in an earnest effort to place this case in condition for allowance. Reconsideration is respectfully requested.

In the Action, the Examiner has set forth her Requirement for Restriction. Applicants hereby affirm their provisional election, with traverse, to prosecute the claims of Group II, namely claims 5-10. This election is made with traverse since it is believed that the claims of Groups I and II are sufficiently closely related as permit their consideration in a single application. To this end, applicants have amended claim 1 in a manner consistent with amendments to elected independent claim 5. Entry and consideration is respectfully requested.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §102, or alternatively, 35 U.S.C. §103, with reliance upon U.S. Patent No. 4,556,601, to Kirayoglu. However, as set forth in the amended claims, applicants' novel filter media construct is neither taught nor suggested by this prior art reference. Accordingly, the Examiner's rejection is respectfully traversed.

As discussed in applicants' Specification, the present invention is directed to a filter media construct comprising hydroentangled, predominantly polyester staple length fibers having a basis weight of no more than about 12 oz. per square yard. Significantly, while the filter media is of a basis weight which facilitates its cost-effective use in relatively large-scale industrial applications, the filter media nevertheless exhibits the

requisite Mullen Burst strength, as well as desirably low machine-direction and cross-direction shrinkage at an elevated temperature. Notably, this is achieved by *heat-treating* the filter media subsequent to hydroentanglement, thus providing the desired physical characteristics for the filter media.

Significantly, the Kirayoglu reference relied upon by the Examiner has *no teaching or suggestion* of effecting any such heat-treatment, and as such, does not anticipate, nor render obvious, applicants' claimed invention.

As specifically disclosed in the Kirayoglu reference, the formation of a "heavy-weight" nonwoven fabric is contemplated, with the disclosure of the patent principally concerning creation of such heavy-weight fabrics by hydroentanglement processing.

Significantly, there is *no teaching or suggestion* in the Kirayoglu patent of effecting a heat-treatment step which, in accordance with the present invention, has been found to create filter media exhibiting the requisite Mullen Burst strength, while at the same time exhibiting desirably low shrinkage. Thus, while the Examiner stated that "it is reasonable to presume that properties are inherent to heavy-weight fabric of Kirayoglu", this reference has *no disclosure* of performing such a heat-treating step.

As will be recognized, the recited heat-treating step of applicants' claimed invention has been found to desirably increase the crystallinity of the polymer from which the filter media is formed, thereby desirably stabilizing the filter media construct, and providing it with the desired shrinkage-resistant properties. It is important to recognize that resistance to shrinkage is a very important characteristic of the present filter media,

since an absence of shrinkage-resistance can undesirably result in non-uniform shrinkage, material failure, failure of a seam of a filter product, and potentially imparts stress to an associated filter apparatus which could impair its function.

Thus, it is respectfully maintained that the Kirayoglu reference clearly fails to teach or suggest formation of a filter media construct exhibiting the claimed shrinkage-resistance, and it is reading beyond the teachings of this reference to infer that the disclosed products would exhibit such shrinkage-resistance.

It should further be noted that the Kirayoglu reference specifically *teaches away* from such a claimed heat-treating step, in that this reference specifically describes the disclosed fabric as "not having been subjected to a shrinking operation" (column 10, lines 51-52). In light of this express disclosure, applicants must respectfully maintain that this reference cannot provide a proper basis for rejection of applicants' claims as set forth in the present Amendment.

In the Action, the Examiner refers to *In Re Best*, but as is specifically stated by the Court in that case, a rejection predicated on "inherency" requires that "the claimed and prior art products are identical or substantially identical, or are produced by identical or substantially identical processes". In the present case, it is clear that the filter media of the present invention *is not* produced by an identical or substantially identical process as disclosed in the Kirayoglu reference, which specifically *teaches away* from a "shrinking operation", leading those skilled in the art to conclude that a heat-treating step, such as

Application No. 10/050,413  
Amendment dated November 18, 2003  
Reply to Office Action of July 29, 2003

heat-bonding or heat-setting, in accordance with the present invention, is not contemplated.

In view of the foregoing, formal allowance of claims 1-10 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fee which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on November 19, 2003.

